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7 UNITED STATES DISTRICT COURT
8 WESTERN DISTRICT OF WASHINGTON
9 -----

10 HUY-YING CHEN, an individual,

11
12 Plaintiff

Civil Action #

13 -against-

14 **21-CV-1492** RSM

15 KING COUNTY SHERIFF'S OFFICE, a
16 governmental agency, and HUGO R.
17 ESPARZA, an individual, and
18 in his capacity as an authorized deputy,
19

20 Defendants.
21 -----

22
23 **COMPLAINT FOR DAMAGES AND DEMAND FOR JURY TRIAL**

24 Plaintiff, HUY-YING CHEN, (hereinafter referred to as "Chen" or
25 "Plaintiff), individually, and via *Pro Se* submission, brings this Complaint for
26 Damages and Demand for Jury Trial against Defendants KING COUNTY
27 SHERIFF'S OFFICE (hereinafter referred to as "KCSO"), and HUGO R.
28 ESPARZA (hereinafter referred to as "Esparza") (collectively referred to as
29 "Defendants"), and in support of his claims, states the following:
30
31

1 2. Venue is proper in the United States District Court for the
2 Western District of Washington under 28 U.S.C. §1391(b)(2), which states
3 that venue is proper in “a judicial district in which a substantial part of the
4 events or omissions giving rise to the claim occurred, or a substantial part
5 of property that is the subject of the action is situated.”

6 3. Defendants are subject to this Court’s personal jurisdiction since
7 they reside and conduct everyday business in King County, Washington,
8 which is located within this judicial district.

9 4. Since the claims herein present a federal question and a
10 substantial part of the events giving rise to Chen’s claims occurred in this
11 judicial district, jurisdiction and venue are properly established before this
12 Court.

13
14 PARTIES TO THE ACTION

15 5. Plaintiff Chen is *sui juris* before this court, a natural person over
16 the age of 18, and a citizen residing in this district.

17 6. Defendant KCSO is a governmental agency located in King
18 County, Washington, a law enforcement agency tasked with the safety and
19 protection of King County residents.

1 7. Defendant Esparza is *sui juris* before this court, a natural person
2 over the age of 18, and upon information and belief, a citizen residing in this
3 district. At all material times herein, Esparza was a Deputy Officer within
4 the KCSO, and operating under the control of KCSO.

5
6 RELEVANT FACTUAL ALLEGATIONS

7 8. In 1999, Chen and his wife (now deceased) borrowed \$525,000.00
8 from Washington Mutual Bank to purchase a home located at 5112 189th
9 Avenue N.E., Sammamish, Washington 98052 (hereinafter referred to as
10 the “subject property”).

11 9. Payments on the mortgage were consistently made on time as
12 agreed.

13 10. Despite that, on or about May 10, 2006, a Summons & Complaint
14 were issued in Case No. 06-2-16117-3 by King County Superior Court
15 (“KCSC”) against Chen that JPMorgan-Chase, as alleged successor to
16 Washington Mutual Bank, initiated a judicial foreclosure action in rem
17 on the subject property.

18 11. On March 19, 2007, Chen filed for Bankruptcy protection and on
19 March 21, 2007, a Notice of Stay applied.

1 12. The judicial foreclosure case was subsequently removed to the
2 Bankruptcy Court as an adversary proceeding.

3 13. On November 29, 2007, the Bankruptcy court erroneously granted
4 JPMorgan's motion for summary judgment under the Rooker-Feldman
5 Doctrine and awarded JPMorgan-Chase¹ a judgment in the amount of
6 \$647,478.68 and ordered a foreclosure sale of the subject property in
7 satisfaction of the debt.

8 14. On April 18, 2008, JPMorgan filed the "Judgment Summary and
9 Affidavit of Steven K. Linkon for erroneously Filing a Foreign Judgment
10 for Bankruptcy's summary judgement order which entered on November
11 29, 2007, in King County Superior Court.

12 15. On May 10, 2016, the judgment entered against Chen from the
13 original judicial foreclosure *in rem* case expired its statutory 10 years
14 life.

15 16. On September 30, 2016, Defendant KCSO received the 5th new
16 order of sale to effectuate the foreclosure in rem of the subject property.

17 17. Chen contends the Sheriff's Deed to Real Property is void because
18 the sale occurred more than 60 days after the Order of Sale was entered,

¹ Defendants JP MORGAN CHASE BANK, as Trustee, f/k/a The Chase Manhattan Bank, Successor in Interest to the Chase Manhattan Bank, N.A. (hereinafter referred to as "JPMorgan-Chase"); and The Bank of New York Mellon Trust Company, N.A., ("BNMT")

1 which violated RCW 6.17.120 - the execution shall be returned with a
2 report of proceedings under the writ within sixty days after its date to
3 the clerk who issued it. See *Albice v. Premier Mortg. Servs. of Wash., Inc.*,
4 174 Wn.2d 560, 568, 276 P.3d 1277 (2012). (“When a party’s authority to
5 act is prescribed by a statute and the statute includes time limits . . .
6 failure to act within that time violates the statute and divests the party
7 of statutory authority. Without statutory authority, any action taken is
8 invalid.”).

9 18. The subject property was wrongfully sold at foreclosure sale on
10 December 16, 2016.

11 19. On February 10, 2017, Chen filed an Objection to the confirmation
12 of sale. Chief Civil Judge (“Chief Judge-Beth”) denied/overruled Chen’s
13 Objection. Chief Judge-Beth emphasized her ruling was not on a hearing
14 of certificate of confirmation sale. As such, she required JPMorgan-
15 Chase to file a separate motion and notice of hearing to confirm the sale.
16 (*See Attachment A-hearing transcript*). Chase or JPMorgan-Chase
17 never set up a hearing to confirm the sale.

18 20. On February 14, 2018, the Superior Court Ex Parte Department
19 issued an alleged order confirming the sheriff’s sale *nunc pro tunc* to
20 February 10, 2017. Chen has disputed the validity and meaning of this

1 order because confirmation of sale never occurred how “*nunc pro tunc*”
2 can applied.

3 21. On August 1, 2019, the KSCO delivered “RECEIPT(S) OF
4 CERTIFICATE OF PURCHASE” to an unknown purchaser without
5 confirmation of the sale that strictly violated RCW 6.21.110(e).

6 22. On August 7, 2019, the KSCO had recorded as Instrument No.
7 20190807000558, a Sheriff's Deed to Real Property, which purports to
8 transfer ownership of the subject property to Defendant BONY Trust.²
9 (*See Attachment B – Sheriff's Deed to Real Property*).

10 23. Esparza signed the Sheriff's Deed to Real Property, acting as
11 “Authorized Deputy.”

12 24. The Sheriff's Deed be issued by Defendants without certificate of
13 confirmation sale and without certificate of redemption violated RCW
14 6.21.110, RCW 6.23.020 and RCW 4.56.190.

15 25. The Sheriff's Deed to Real Property was also issued after the 10-
16 year limitations period. Thus, the alleged transfer of ownership to
17 BONY Trust is void as a matter of law. BONY Trust is not the legal
18 owner of the subject property and its asserted interest in the subject

² *W.T. Watts, I. v. Sherrer*, 89 Wash.2d 245, 248, 571 P.2d 203 (1977) (stating that the Washington Supreme Court has recognized that a sheriff's certificate of purchase does not pass title but is only evidence of an inchoate interest which may or may not ripen into absolute title).

1 property is wrongful and has caused Chen damages: economic,
2 emotional, and otherwise.

3 26. "A judgment lien is born by statute, RCW 4.56.190," and dies by
4 statute, RCW 4.56.210.[[14]]" Grub v. Fogle's Garage, Inc., 5 Wash.App.
5 840, 843, 491 P.2d 258 (1971). The Grub court held that "when the
6 judgment expires the ancillary proceedings by way of execution, if the
7 sale has not been confirmed, expire with it." Grub, 5 Wash. App. at 843,
8 491 P.2d 258 (quoting Ferry County Title & Escrow Co. v. Fogle's Garage,
9 Inc., 4 Wash.App. 874, 880, 484 P.2d 458, review denied, 79 Wash.2d
10 1007 (1971)) (Italics omitted).

11 27. Any purported assignments of mortgage are void as a matter of
12 law.

13 28. On or about July 25, 2017, Chen hired a private investigations
14 company to investigate the title history of the subject property and
15 perform a securitization audit. BP Investigative Agency, LLC performed
16 the investigation and provided a report of findings. (*See Attachment C*).

17 29. BP Investigative Agency found significant deficiencies in the title
18 documents.

19 30. BP Investigative Agency found that "there are no entities that can
20 be positively identified through the assignments other than the named

1 originating "lender - Washington Mutual Bank." WMB is defunct and the
2 loan did not go through the FDIC and was not acquired by JPMorgan
3 Chase as part of the FDIC's Receivership."

4 31. Without an adequate showing of standing, the *in rem* foreclosure
5 judgment entered as a result of the filing is void and of no effect.

6 32. Defendants knew, or should have known, that the foreclosing
7 entities had no legal standing as fictional entities to initiate a judicial
8 foreclosure action.

9 33. The person entitled to enforce a promissory note is: (i) the holder
10 of the instrument, (ii) a nonholder in possession of the instrument who
11 has the rights of a holder, or (iii) a person not in possession of the
12 instrument who is entitled to enforce the instrument pursuant to RCW
13 62A.3-309 or 62A.3-418(d). A person may be a person entitled to enforce
14 the instrument even though the person is not the owner of the
15 instrument or is in wrongful possession of the instrument. RCW 62A.3-
16 301.

17 34. A "holder" is "[t]he person in possession of a negotiable instrument
18 that is payable either to bearer or to an identified person that is the
19 person in possession." See RCW 62A.1-201(b)(21)(A).

1 35. Defendants knew, or should have known, that the foreclosing
2 entities never proved that they were a "holder" of the underlying note
3 which secures the mortgage and title to the subject property.

4 36. The Sheriff's Deed issued on August 7, 2019 is void as a matter of
5 law since the underlying foreclosure was wrongful and illegal.

6 37. Defendants acted as one in a calculated and sentinel scheme to
7 deprive Chen of his civil rights to be protected in his interest in the
8 subject property. Further, Defendants' actions herein were wrongful and
9 malicious and clearly fall outside the bounds of decency in any civilized
10 society. With clear and evidence in hand that the title to the subject
11 property was defective and disputes surrounding the subject property
12 were pending in Court, Defendants moved forward in preparing, filing,
13 and having recorded a void Sheriff's Deed to Real Property.

14 38. As a direct and proximate result of Defendants' actions, Chen has
15 been emotionally and financially damaged.

16
17 **COUNT ONE – VIOLATION OF 42 U.S.C. §1983**

18 39. Chen incorporates by reference all other paragraphs of this
19 Complaint as if fully set forth herein.

1 40. Defendants' willful and wrongful actions deprived Chen of his
2 constitutional right to liberty and the pursuit of happiness.

3 41. Defendants knew, or should have known, that there was no
4 evidence to indicate that the underlying judicial foreclosure had been
5 conducted within the confines of Washington law.

6 42. At all times material, Defendants were acting in their official
7 capacities under the color of law.

8 43. In order to state a claim for relief under 42 U.S.C. §1983, a plaintiff
9 must show: (1) he suffered a violation of rights protected by the
10 Constitution or created by federal statute, and (2) the violation was
11 proximately caused by a person acting under color of state law. See
12 *Crumpton v. Gates*, 947 F.2d 1418, 1420 (9th Cir. 1991).

13 44. A person subjects another to a deprivation of a constitutional right
14 when committing an affirmative act, participating in another's
15 affirmative act, or omitting to perform an act which is legally required.
16 *Johnson v. Duffy*, 588 F.2d 740, 743 (9th Cir. 1978).

17 45. Both requisite elements exist here.

18 46. Defendants' acts, specifically preparing, filing, and recording a
19 void Sheriff's Deed to Real Property, deprived Chen of his right to be

1 protected in his interest in the subject property, liberty, and pursuit of
2 happiness, secured by the United States Constitution.

3 47. Defendants' acts were committed by entities and/or individuals
4 who were acting under the color of state law.

5 48. As a direct and proximate result of Defendants' actions, Chen has
6 been emotionally and financially damaged.

7 **WHEREFORE**, Chen prays for judgment against Defendants in a fair
8 and reasonable sum in excess of \$75,000.00 to be determined at trial
9 together with costs expended herein and such further and other relief as
10 the Court deems just and proper.

11
12 **COUNT TWO- VIOLATION OF DUE PROCESS -**

13 **FOURTEENTH AMENDMENT**

14 49. Chen hereby incorporates by reference each of the preceding
15 paragraphs as if fully set forth herein.

16 50. The due process clause of the fourteenth amendment prohibits the
17 states from depriving "any person of life, liberty, or property, without
18 due process of law."

19 51. Defendants' willful conduct deprived Chen of his liberty protected
20 interest in the subject property.

1 52. As a direct result of Defendants' actions, there now is a cloud on
2 the title to the subject property.

3 53. As a direct result of Defendants' actions, Chen lives in fear of losing
4 his home and being evicted. Chen is currently under threat of unlawful
5 detainer proceedings in King County, Washington.

6 54. As a direct and proximate result of Defendants' actions, Chen has
7 been emotionally and financially damaged.

8 **WHEREFORE**, Chen prays for judgment against Defendants in a fair
9 and reasonable sum in excess of \$75,000.00 to be determined at trial
10 together with costs expended herein and such further and other relief as
11 the Court deems just and proper.

12
13 **COUNT THREE- INTENTIONAL INFLICTION OF EMOTIONAL**
14 **DISTRESS**

15 55. Chen hereby incorporates by reference each of the preceding
16 paragraphs as if fully set forth herein.

17 56. To prevail on a claim for the tort of outrage, (also known as the
18 intentional infliction of emotional distress), a plaintiff must prove that
19 (1) the defendant engaged in extreme and outrageous conduct, (2) the
20 defendant intentionally or recklessly inflicted emotional distress on the

1 plaintiff, and (3) the conduct actually resulted in severe emotional
2 distress to the plaintiff. *Kloepfel v. Bokor*, 149 Wash.2d 192, 195, 66 P.3d
3 630 (2003).

4 57. As a direct result of Defendants' actions, Chen has suffered severe
5 emotional distress. These emotional conditions were not present prior
6 to the issuance of the void Sheriff's Deed to Real Property.

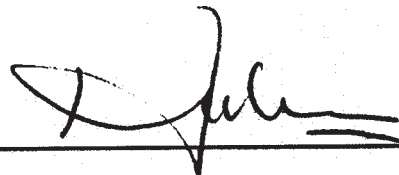
7 **WHEREFORE**, Chen prays for judgment against Defendants in a fair
8 and reasonable sum in excess of \$75,000.00 to be determined at trial
9 together with costs expended herein and such further and other relief as
10 the Court deems just and proper.

11
12 **DEMAND FOR JURY TRIAL**

13 Chen hereby demands a trial by jury on all triable issues.

14 Dated: November 03, 2021.

15 Respectfully submitted,

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17 

18 Huy-Ying Chen
19 Pro Se Plaintiff
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